CLERK'S COPY:

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1945

No. 631

LEE VAN WOODS, PETITIONER,

vs.

WALTER WILKINSHEIMER, WARDEN, ILLINOIS STATE PENITENTIARY, MENARD, ILLINOIS

ON WRIT OF CERTIORARI TO THE CIRCUIT COURT OF RANDOLPH COUNTY, STATE OF ILLINOIS

PETITION FOR CERTIORARI FILED NOVEMBER 20, 1945.

CERTIORARI GRANTED FEBRUARY 25, 1946.

SUPREME COURT OF THE UNITED STATES

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[fol. 1]

IN THE CIRCUIT COURT OF RANDOLPH COUNTY. ILLINOIS

CONVENING AND ADJOURNING ORDERS

[fols. 2-3] Sept. 24, 1946. Now on this day Court is duly convened at the hour of 9:30 o'clock A. M., with the Honorable Ralph L. Maxwell as Judge presiding and all other officers of Court being present to-wit: Harold Hahn, Circuit Clerk, David N. Conn, State's Attorney and Elmo N. Morrison, Sheriff.

Now again on this same day at the hour of 5:00 o'clock P. M. Court is adjourned for the day.

Oct. 2, 1946. Now on this day Court is duly convened at the hour of 9:30 o'clock A. M. with the Honorable Ralph L. Maxwell as Judge Presiding and all other officers of Court being present to-wit: Harold Hahn, Circuit Clerk, David N. Conn, State's Attorney and Elmo N. Morrison, Sheriff.

Now again on this same day at the hour of 4:00 o'clock P. M., Court is adjourned for the day.

[fols. 4-5] IN CIRCUIT COURT OF RANDOLPH COUNTY

The People of the State of Illinois, ex rel, LEE VAN WOODS, Petitioner,

vs.

WALTER NIERSTHEIMER, Warden Illinois State Penitentiary, Menard, Illinois, Respondent

AFFIDAVIT IN FORMA PAUPERIS

Comes now, Lee Van Woods, plaintiff in the above entitled cause and being first duly sworn, on oath deposes and says, to-wit: that he is petitioner in the above entitled cause; that he verily believes he has a good valid and sufficient cause of action; that he has no money or funds with which to pay the costs or fees to prosecute his cause; that he has no property or other assets with which to pay the said costs and fees; that he verily believes he is entitled to the relief he seeks, the same being a writ of habeas corpus to effect his release from his imprisonment; that his foregoing

statements are true and correct and that he is ready and willing to verify the same.

Lee Van Woods, Affiant.

Subscribed and sworn to before me on this 25 day of September, A. D. 1945. James A. Denny, Notary Public. (N. P. Seal.)

[fols. 6-7] In Circuit Court of Randolph County

[Title omitted]

Motion for Leave to Proceed in Forma Pauperis

Comes now, Lee Van Woods, petitioner in the above entitled cause and respectfully moves the court that because of his poverty that he be permitted to prosecute his cause of action as a poor person, as provided in the Laws of Illinois, Ill. Rev. Stat. 1941, Ch. 33, par. 5, without the payment of costs or fees.

It is further moved that the Court order the usual and necessary process that may be needed to issue, as provided by the Laws of Illinois, Ill. Rev. Stat. 1941, Ch. 33, par. 6, without payment of costs or fees.

Respectfully submitted, Lee Van Woods, Petitioner, Pro se.

Lee Van Woods, Petitioner, Reg. No. 17295. Illinois State Penitentiary, Menard, Illinois.

[fol. 8] In Circuit Court of Randolph County

The People of the State of Illinois ex Rel. Lee Van Woods, Petitioner,

vs.

Walter Nierstheimer, Warden, Illinois State Penitentiary, Menard, Illinois

Petition for the Writ of Habeas Corpus

Comes, now, Lee Van Woods, petitioner in the above entitled cause, and respectfully represents unto the Court, that:

I. The action arises under the Constitution of the United States, an action to redress the deprivation of his right of due process of law as guaranteed by Section 1 of the Fourteenth Amendment; an action within the original jurisdiction of the Court as given by the Constitution of Illinois, Section 12, Article VI; an action within the statutory powers and jurisdiction given to this court by the Laws of Illinois, Ill. Rev. Stat. 1941, ch. 37, pars. 72:25; 72:26; an action within the provisions of Section 2 of the Habeas Corpus Act, Ill., Rev. Stat. 1941, ch. 65, par. 2, as an application to a Court of competent jurisdiction of where the petitioner is confined.

II. The petitioner is imprisoned in the Illinois State Penitentiary at Menard, Illinois, by the respondent Walter Nierstheimer, Warden of the said institution.

III. The cause or pretents of his imprisonment is an order of commitment issue- by the Criminal Court of Cook County, Illinois, in case entitled People v. Woods, Gen. No. 40-463 of said Court wherein the petitioner purportedly made a free and voluntary confession to the crime of murder, had competent counsel appointed for him, and entered a free and voluntary plea of guilty to the crime of murder and the judgment of the Court sentenced him to the Illinois State Penitentiary for the term of 99 years. Copy of the said order hereto attached, marked Exhibit "A", and reference made a part hereof.

IV. The true and correct facts regarding the petitioner free and voluntary confession, the appointment of compe-

tent counsel for the petitioner and his free and voluntary plea of guilty, and his arrest is as follows:

That on or about March 8 or 9, 1940, the Chicago Police came to the petitioner- place of residence and put the petitioner under arrest. The police took the petitioner into his bedroom and put revolves to the petitioner- head, beating the petitioner and telling the petitioner if he moved they the police would blow his brains out. In answer to the petitioner- inquir-es as to why he was being treated that [fol. 9] way, they the police, then accused the petitioner of the crime of murder, the police kept asking him what the petitioner did with the gun.

A search was made of the petitioner- room and several guns were found which belonged to the petitioner. Upon the finding of the guns the police began beating the petitioner trying to make him confess, this the petitioner refused to do, then the petitioner was told that he would confess before they the police got through with him.

The petitioner was taking from his residence and put into a police car and was taken to the police station, while on the way there, the police put lighted cigarettes in petitioner- face, demanding from him "Are you going to talk nigger." The Police in charge of the officers who was later learned by the petitioner, to be a Serg-ant Bob Hornett: The petitioner arrived at the station, name and location unknown, about 12:00 noon, the petitioner was steadely questioned and beaten until 7:30 P. M. being told that he killed him and that the petitioner better confess, when it was learned that the petitioner would not confess the petitioner was put into a cell and as often as he tried to recuperate from the beatings the petitioner was called for more questioning.

The following morning the petitioner was given a cup of coffee and a doughnut and was told that he would not get anything more to eat nor any tobbacco until the petitioner confessed. The petitioner was beaten some more at this station and then taken to the 48th Street Station, where he was again beaten and questioned until about 2:00 P. M. At all times the petitioner protested his innocence of the crime which the police were trying to make him confess too.

Sometime that afternoon the petitioner was taken to the Stanton Avenue Station where the police took him in the basement and handcuffed the petitioner to a pipe on the ceiling, beating the petitioner with blackjacks, clubs and

hands. The officer in charge of the police at the time of the arrest, was Serg-ant Bob Hornett, also this Serg-ant Hornett was there most of the time supervising the treatment. The questioning and beatings was continued for two days then the petitioner was taken and put in a line up for identification. Witnesses were brough- and upon the assistance of the police that he the petitioner was the man and upon the petitioner- pleas to one witness that this witness be fair this witness said he did not know for sure but that the petitioner might be the man.

Then the petitioner was taken to the office of the station where a person in civilian clothes questioned him, the petitioner at all times protested his innocence. The petitioner was taken out of this office and while the petitioner was leaving he heard this person tell the police to get a confession. [fol. 10] About the fourth day after petitioner- arrest he was taken to the States Attorney's office at 26th Street and California where the petitioner was told to sign some papers. The petitioner was attempting to read these papers, when Serg-ant Hornett began beatings again telling the petitioner to sign them or he would finish the job of killing the petitioner. The petitioner could not stand any more beatings so the petitioner signed the papers which later learned was a confession.

The petitioner was then taken before a judge and bound over to the grand jury.

On March 14, 1940, the grand jury returned the indictment, Gen No. 4-463, charging the petitioner with the murder of Stephen Broscoe on March 6, 1940, George Jones being impleaded with the petitioner. On March 15, 1940, the petitioner was taken before the Chief Justice of the Criminal Court, Judge John Prystalshi, who appointed the Public Defender as counsel for the petitioner in the trial of the cause and assigned the cause to Judge William J. Lindsay. The petitioner was then returned to the County Jail, the Public Defender never came to consult with the petitioner in regards to the facts of the crime charged against the petitioner.

On May 20, 1940, the petitioner was taken to the Court-room-bull-pen to await his trial, while there a colored man came to see the petitioner telling him that he was the petitioner- lawyer and had been appointed to defend the petitioner. The petitioner was told by this lawyer that everything was fixed. The counsel would not listen to the facts

and matters concerning the treatment the petitioner received by the police, the counsel kept saying that the petitioner should let him handle it as he was a lawyer and knew what he was doing and that he the lawyer would handle everything.

From the evidence given at the trial the petitioner first learned that he was supposed to have shot Stephen Broscoe about 6:35 P. M. the night of March 6, 1940. The petitioner tried to tell the judge that the petitioner did not know anything of the crime, but the petitioner counsel pulled him back into his seat and told the petitioner that he had pleaded guilty, that if the petitioner did not keep his mouth shut he would go to the electric chair, the States attorney also saying if the petitioner don't keep his mouth shut he will burn. At no time did the petitioner- counsel objected to the proceedings in the Court, examine the witnesses, nor put forth any evidence for the petitioner- defense, at the close of the States evidence the ptitioner counsel told the Court, that the petitioner was guilty and should receive a prison sentence which should keep the petitioner in prison for the rest of petitioner- life, a sentence of ninety nine (99) years being imposed on May 21, 1940.

At the time of the crime which the petitioner was charged with the petitioner could have proven that he was at a friend- house from where he went to his own place of [fol. 11] residence at 4733 Michigan Ave., Chicago, Illinois, here the petitioner played cards with others and from there the petitioner called up other friends. This was told to the counsel on the day of the petitioner- trial, but petitioner-lawyer said due to the confession which was signed in the States Attorney's office, he the counsel could not get witnesses and that only a plea of guilty could be had under the circumstances. At no time did the petitioner authorize the Public Defender to enter a plea of guilty or entered such a plea himself, at all time the petitioner pleaded not guilty and protested his innocence to the crime charged.

At the time of the trial the petitioner was a pauper without sufficient funds or means to employ counsel to defend him and was under the circumstances compelled to accept the service of the Public Defender, the petitioner was twenty-two years of age and a public school graduate without any legal knowledge and was a user of marijuana which left the petitioner sick and nervous and living in

a world of fog and after the petitioner was in prison a long time which is five years, Legal knowledge was made available. The petitioner have study for the last nine months and have learned that he had been deprived of his rights by the officers of the Court.

(A)

The purported free and voluntary confession which was obtained from him was obtained by the use of copious beatings by the Chicago Police which intimidated and coerced him into signing the confession after he had lost his powers of physical and mental resistance.

(B)

The Public Defender of Cook County, Illinois, who had been appointed to represent him because of his poverty, did not consult with him in regards to the facts of the case, at no time prior to the date of the trial, and when told the facts by which the confession had been obtained refused to consider them, telling the petitioner herein that he was guilty, that no defense could be had because of the confession, that a plea of guilty was the only plea he could enter under the circumstance and that he was going to withdraw the petitioner- plea of not guilty and enter a plea of guilty.

(C)

The petitioner plea of not guilty was withdrawn and a plea of guilty entered over his protests and when he attempted to tell the Court of the actions taken the States Attorney and Public Defender both threatened him with a sentence to the electric chair if he did not maintain his silence.

5. That the order of judgment entered by the Criminal Court of Cook County, Illinois, as set forth, in paragraph 3, is not an order of a court of competent jurisdiction, because of the following matters.

(A)

The use of duress, intimidation and coercion to obtain the confession of the petitioner to the crime he was charged [fol. 12] with was without due process of law, or any process of law, in violation of his rights as guaranteed by the Con-

stitution of the United States and particularly by Section 1 of the Fourteenth Amendment thereto, which he here and now pleads and relies upon to obtain redress for the wrong done him.

(B)

The actions of the Public Defender, in failing to consult with the petitioner prior to the trial to prepare a defense and put the true facts before the Court, deprived him of his right to the assistance of competent counsel and the usual and accustomed incidentals of consultation and preparation without due process of law, or any process of law in violation of his right as guaranteed by the Constitution of the United States, and particularly by Section 1 of the Fourteenth Amendment thereto, which he here and now pleads and relies upon to obtain redress for the wrong done him.

(C)

The actions of the officers of the Court in withdrawing the petitioner's plea of not guilty and entering a plea of guilty over his protests and subsequently using duress, intimidation and coercion to cause him to maintain his silence, deprived him of his right to a fair and impartial trial without due process of law, or any process of law, in violation of his right as guaranteed by the Constitution of the United States, and particularly by Section 1 of the Fourteenth Amendment thereto which he here and now pleads and relies upon to obtain redress for the wrong done him.

6. That the said respondent held illegally in custody said petitioner under the said void, null and unconstitutional order, set forth in paragraph 3, and therefore said petitioner is entitled to his discharge from custody under said order.

7. That the said order is not an order, process judgment or decree specified in Section 21 of the Habeas Corpus Act, Ill. Rev. Stat. 1941, Ch. 65, par. 21.

8. To be released from which said imprisonment your petitioner now applies, praying that a writ of habeas corpus to be directed to the said Walter Nierstheimer, Warden Illinois State Penitentiary at Menard, Illinois, may issue in this behalf pursuant to the statute in such case, made and provided, so that your petitioner may be forthwith, brought

before this Court to do, submit to and receive what the Constitution of the United States may require in that behalf.

Respectfully submitted, Lee Van Woods, Petitioner Pro Se.

[fol. 13] *Duly sworn to by Lee Van Woods. Jurat omitted in printing.*

[fol. 14] EXHIBIT "A" TO PETITION

UNITED STATES OF AMERICA

STATE OF ILLINOIS,
County of Cook, ss:

Pleas before a Branch of the Criminal Court of Cook County, in said County and State, at a term thereof begun held at the Criminal Court House in the City of Chicago, in said County, on the first Monday (being the sixth day of May, in the year of our Lord one thousand nine hundred and forty and of the independence of the United States the one hundred and sixty-fourth).

Present Hon. William J. Lindsay, Judge of the Superior Court of Cook County and Ex-Officer Judge of the Criminal Court of Cook County.

Attest: Thomas J. Courtney, State's Attorney; Thomas J. O'Brien, Sheriff; Thomas J. Bowler, Clerk.

No. 40-463

THE PEOPLE OF THE STATE OF ILLINOIS

vs.

LEE VAN WOODS (Impleaded)

INDICTMENT FOR MURDER

This day come the said People, by Thomas J. Courtney, State's Attorney, and the said defendant as well in his own proper person as by his counsel also comes on now neither the said defendant nor his counsel for him saying anything further why the judgment of the Court should not now be

pronounced against him on the plea of guilty heretofore rendered to the indictment in this cause.

Therefore, it is considered ordered and adjudged by the Court that the said defendant Lee Van Woods is guilty of the said Crime of Murder in manner and form as charged in the indictment in this cause, and the said plea and judgment of guilty, and that he be and is hereby sentenced to confinement at hard labor in the Illinois State Penitentiary for said crime of murder in manner and form as charged in the indictment, whereof he stands convicted and adjudged guilty, for the term of ninety-nine (99) years from and after the delivery of the body of said defendant Lee Van Woods to the Illinois State Penitentiary, and that the said defendant Lee Van Woods be taken from the bar of the Court to the Common jail of Cook County, from whence he came and from thence by the Sheriff of Cook County to the Department of Public Welfare and the said department of Public Welfare is hereby required and commanded to take the body of the said defendant Lee Van Woods and confine him in said Penitentiary, in safe and secure custody, for and during the term of ninety nine (99) years from and after delivery thereof, at hard labor, and that he be thereafter discharged.

[fols. 15-16] It is further ordered that the said defendant pay all the costs of these proceedings, and that execution issue therefore.

State of Illinois,
County of Cook, ss:

I, Thomas J. Bowler, Clerk of the Criminal Court of Cook County, in said County and State, do hereby certify the above and foregoing to be a true, perfect and complete copy of an order entered of Record in said Court of The People of the State of Illinois, versus Lee Van Woods.

Witness Thomas J. Bowler, Clerk of said Court, and the seal thereof, at Chicago, in said County, this twenty-second day of May A. D. 1940.

to the Sheriff of Cook County to execute.

(S.) Thomas J. Bowler, Clerk.

[fol. 17] In Circuit Court of Randolph County

Habeas Corpus No. 1172

People of the State of Illinois ex rel. Lee Van Woods

vs.

Walter Niersth-imer, Warden Illinois State Pentitentiary, Menard, Illinois

Order Granting Leave to Proceed in Forma Pauperis and Denying Petition for Writ of Habeas Corpus—October 2, 1945

Leave to sue as poor person granted. Petition for Writ of Habeas Corpus denied for want of jurisdiction and failure to state a cause of action.

Ralph L. Maxwell, Judge of the Circuit Court of Randolph County, Ill.

[fol. 18] Clerk's Certificate to foregoing transcript omitted in printing.

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fol. 19 Supreme Court of the United States

Order Granting Motion for Leave to Proceed in Forma Pauperis—February 25, 1946

On consideration of the motion for leave to proceed *in forma pauperis* in this case,

It is ordered by this Court that the said motion be, and the same is hereby, granted.

Mr. Justice Jackson took no part in the consideration or decision of this motion.

[fol. 20] Supreme Court of the United States

Order Allowing Certiorari—Filed February 25, 1946

The petition herein for a writ of certiorari to the Circuit Court of Randolph County, State of Illinois, is granted and the case is transferred to the summary docket.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied

the petition shall be treated as though filed in response to such writ.

Mr. Justice Jackson took no part in the consideration or decision of this application.

Endorsed on Cover: In forma pauperis Enter Lee Van Woods pro se. File No. 50334. Illinois, Circuit Court of Randolph County. Term No. 631. Lee Van Woods, Petitioner, vs. Walter Nierstheimer, Warden, Illinois State Penitentiary, Menard, Illinois. Petition for writ of certiorari. Filed November 30, 1945. Term No. 631 O. T. 1945.